

**Bryan Fairfax to George Washington, August 5, 1774,
Letters to Washington and Accompanying Papers.
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FROM BRYAN FAIRFAX, ESQ.

TOWLSTON August the 5th.1774.

DEAR SIR,

I received your Favour of the 20th: of July, and must own that I thought it odd at first that my Letter was not read till I considered that I had no Right to have it done, as every one who chose it ought to have been present, and till I perceived by your Letter that the Committee were against it. If there had been no Reason for refusing it but a Persuasion that the Sentiments contained it it were erroneous I don't think it would have been a just one. I am satisfied with your Reasons as I had no Desire to make a Party or oppose my opinion to that of a large Majority; I sent it down, as I could not go in person without great Inconvenience, that I might not hereafter reproach myself with being silent on the Occasion. However I am inclined, since the Receipt of yours, to think I am mistaken about the Plan determined on at Home. You have no Reason Sir to doubt your opinion; It is I that have Reason to doubt mine when so many Men of superior Understanding think otherwise. It has in Fact caused me to examine it again & again; but if I was not convinced of an Error, it appeared to me that it shewed as much Cowardice in a Man not to maintain his opinions when real as Obstinacy to persevere in them contrary to Conviction. Mr. Williamson told me the other day that he found afterwards that there were a great many of his opinion in the Court House who did not care to speak because they thought it would be to no Purpose; and it may be so, because a Person, present when

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he was telling me so, said he was at the Meeting and did secretly object to some of the Resolves but could not speak his Mind. That You may not think my Sentiments quite so singular as they appeared to be, I must observe, that the second Person's Opinion I heard after the Arrival of the Boston Port Bill was Mr. Dalton's, who asked me what I thought of it; whether I did not think that the Parliament were bound to do what they did or something like it to secure the Trade of their Merchants? If the same outrage had been committed in any foreign Port whether the Government could have acquiesced without demanding and enforcing Restitution? or something to this Purpose. And it really appeared to me then a distinct Thing from enforcing the Payment of the Duty. The next Person whose opinion I heard was Mr. Williamson's; and the next Mr. Henderson's, with this difference, that the Bostonians ought to have destroyed the Tea, but should have sent home the Payment for it immediately. But that the Government could not avoid taking the Steps &c. He joined with me in opinion that the People at Boston were blameable in their Behavior in other Respects; And when I expressed my Concern at the Bill then talked of for altering their Charter, he observed that the Measure might be necessary considering the factious Conduct of the people; and They have all along appeared to me to shew a different Spirit from the Rest of the Colonies; and if ever we have a civil War I think without some Check they will be at the head of it, and I can't conceive any thing Worse for America at present. I know not whether Mr. Henderson told me this in Confidence or not; In case He should I beg that You won't mention his opinion, altho' he don't reserve this Caution. By mentioning the word Check, I don't mean to approve of All or scarce one of the Measures lately exercised on N: England. A Charter should not be altered without the Consent or consulting with the Majority of the people, or upon some very flagrant or violent Occasions wherein the good of the whole is endangered. But even the consent of the whole ought to be obtained. No Constitution as I mentioned in my Letter should be altered unless the Consent of every part concerned can be had. We have no right to alter our Constitution without the consent of the King & Parliament. For the same Reason none of our Constitutions should be altered without our Consent: For the Parliament according to the opinion of good Civilians have no Right to alter the Constitution of England, without

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taking or obtaining a Sanction from the Voice of the people if it could be had; because the Constitution is fixed when the people's Representatives are chosen And therefore they must Act according to it and can't alter it. It may possibly be for the good of the Colony of Massachusetts to alter the Constitution Governor Hutchinson a Native and a Man of good Character advised it, it is true, but he may have too arbitrary Notions. As the People who first went to settle chose such a Form of Government and obtained it, they ought to be the best Judges of the Conveniencies or Inconveniencies attending it. I wish our's was altered with respect to the Council: but it is dangerous meddling in it such Matters; it might be a bad precedent in troublesome times. And as to ye Act for transporting Criminals to England for Trial tho' I wish every man could obtain strict Justice, and that no man in civil Disputes should be tried till the Passions of Men have a little subsided, I dislike it as much as any Man; But in regard to the Boston Port Bill I own I have no objection to it, except to the Power given to the Crown of shutting up the Port after the Tea may be paid for. I can see no Difference between demanding Satisfaction first, and sending a Fleet to demand it with conditional orders to block up the Port upon Refusal, or till Satisfaction is made. I own too that I have been inclined to think that the Tea ought to have been paid for before the other Colonies had joined in Support of Boston; but I suppose I am wrong as so many others think otherwise. However upon this occasion I can't help mentioning, that at a very full Meeting of Gentlemen at York relating to the Middlesex Election that there were only two, one a namesake of mine, who dissented from the whole Assembly; consequently their opinions were very unpopular. And yet I have lived [to] see some coming over to their opinion and as strongly of their opinion; two of them at least, Mr. Harrison and Mr. Grayson, as ever they were of a contrary one. This Example (if this Assembly were mistaken) would serve to shew, if there were not Many Instances in History where large Bodies of Men have been mistaken, that a Man, however doubtful he may become when he perceives a great Number to think otherwise, ought not to be too hasty in giving up his opinion.

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I have been uneasy to find, that any one should look upon the Letter sent down as repugnant to the principle we were contending for; and therefore when You have leisure I shall take it as a Favor if you will let me know wherein it was thought so. I must make an Apology for these long Letters which I trouble you with. I have scarce passed a day without anxious thoughts upon the Subject. I beg leave to look upon you as a Friend and it is a great Relief to unbosom ones thoughts to a Friend; besides, the Information and Correction to my Errors I may obtain from a Correspondence is a great Inducement to it; For I am convinced that no Man in the Colony wishes it's Prosperity more, would go Greater Lengths to serve it, nor is at the same time a better Subject to the Crown. Pray excuse these Compliments—They may be tolerable in a Friend.

I can't recollect any Expression that could give any Reason for the Supposition just mentioned. As to Taxes I was never of opinion that the Parliament had a Right to impose them, and hardly ever had a Doubt upon the Subject of their taking our Money from us without our Consent; Tho' as to the Duty on Tea I never was so clear in opinion as to sign any Paper in Opposition to the Right; but as it is certainly unjust, I may refuse to trade with a Nation exercising that Injustice even if the Right was ever so clear. But I don't remember that I mentioned any doubt upon the Subject. Since I got so far I have been reading King James's Charters to the first Virginia Companys at the End of Stith's History; there is one Expression in the 2d: Charter a Little different from the Quotation of it which I have in the House, and which I can't understand perfectly, at least without considering a subsequent Clause. Sect. 19. And for their further Encouragement, of our special Grace and Favour, we do, by these presents, for Us, our Heirs & Successors, Yield and Grant, to and with the said Treasurer and Company, and their Successors, and every of them, their Factors and Assigns, that they and every of them shall be free of all Subsidies and Customs in Virginia, for the Space of one & twenty years, and from all Taxes and Impositions, for ever, (here the Quotation stops) upon any Goods or Merchandises, at any time or times hereafter, either upon Importation thither, or exportation from thence, into to our Realm of England, or into any other of our Realms or Dominions, by the said Treasurers and Company, and

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their Successors &c: Except only the five pounds per Cent due for Custom, upon all such Goods and Merchandises, as shall be brought or imported into our Realm of England, or any other of these our Dominions according to the ancient Trade of Merchants; &c. In the 21st. Sect. are these words (after directing what duties Strangers and foreigners are to pay over & their Successors, is, or hereafter shall be, to pay) And the same Sums of Money and Benefit as aforesaid for and during the Space of one and twenty years shall be wholly employed to the Benefit, Use, and Behoof of the said Colony and Plantation; And after the said one and twenty years ended, the same shall be taken to the use of Us, our heirs and Successors, by such Officers and Ministers, as by us our heirs and Successors, shall be thereunto assigned and appointed, as is specified in the said former Letters Patents.

I shall be glad of your opinion upon this. If you would read over all the Charters anew some Thoughts might occur on both sides of the Question. The distinction that was made some years ago in the Colonies between the Right to impose Duties for the Regulation of Trade which has been allowed, and the Right to impose Duties for raising a Revenue I don't understand so well as I wish to do, tho' I can see a great difference between the propriety or Justice in laying a small Duty or Duties for the former purpose, and a declared, or apparent Intention to raise a considerable Revenue by degrees.

There is a new opinion now lately advanced in Virginia that the Parliament have no right to make any or scarce any Laws binding on the Colonies. It has given me much Uneasiness. For altho' I wish as much as any one that we were legally exempted from it, yet I hold it clearly that we ought to abide by our Constitution. The common Consent and Acquiescence in the Colonies for such a Length of time is to me a clear Proof of their having a Right. And altho' it is said that it has only been exercised in Matters of Trade, it will be found to be a Mistake. The Act for the Alteration of the Style was unquestionably received and assented to—The Act for the Regulation of the Post-Office, I mean the first Act: the Act empowering Officers to enlist Servants just imported, and to pay the Owners for them; The Acts relating to the Provincial Troops the last War &c have no Relation to Trade; but they were enacted when the Acts of any single Assembly could not have

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answered the End. And upon these occasions they have been passed without the least Objection that ever I heard to the contrary. When I first heard the Subject of Taxation mentioned, a Tax was talked of to be laid by Parliament on the Lands in America. Colo. Mason who was present spoke as much as usual upon the Subject, upon the Im[pro]priety I believe of taxing Infant Colonies, and the nature or excessiveness of it compared to the value of Lands &c. but I did not hear him make one Objection as to the Right of Parliament. When I came afterwards to hear the Right called in Question I recollected the Conversation, and was surprised that I had not heard a Man of his understanding and readiness to find fault with every thing irregular, take Notice of it; And Tho' he may not have considered the Matter as a new point, yet it is a proof that the Idea of the Parliament having no Right to make any Laws for us had not ever entered into his Mind before. I saw Colo. Richard Henry Lee act as a Justice of the peace under the Act relating to Servants, and insist upon the Right he had to act on Shipboard because the Act of Parliament had given power to all Justices in America to act without confining them to their respective Counties. I have often heard mention made of uniting some of the Colonies by Act of Parliament, of some in Pennsylvania having thought of petitioning to have their Charter abrogated and a new Government formed. And all this without any Objection to the Right; which looks to me like a common Consent. But I am almost Unwilling to advance any Opinion now. I shou'd not, but in hopes that you will give me yours upon this Point.

By the first Charter granted to Virginia, the Council were to govern the Colony according to such Laws Ordinances and Instructions as they were to receive from the Crown. By the second Charter they were to be governed by such Laws Orders &c as should be made by the Council for the Colony appointed in & to reside in London; who were to make ordain and establish all Manner of Laws, Orders, Directions, Instructions, forms and Ceremonies of Governmt. and Magistracy, fit and necessary for the said Colony; and the first government was annulled. Pursuant to these Charters and the third the Council and Company in England made an Ordinance for holding an Assembly in Virginia, with power

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to make Laws, in the year 1721—with a proviso that no Law made was to be in force till it had obtained their Assent at Home.

When I have considered these Disputes I have often wished to know the Sentiments of the first Settlers here. In Capt. Smith's History there is mention of Taxes by the Parliament, and some one in Virginia, makes the same Objections to it as we do at this day. Much about the same time I perceive that the Assembly had petitioned the Parliament for Relief; They thought themselves ill used by the King—who I am mistaken in saying that the Assembly petitioned. It was the Company at Home, petitioned, being encouraged it is said by the Parliament having taken the Case of the Plantation Tobacco in Consideration. The Assembly petitioned the King to continue and even farther to confirm the Government, under which they then lived. But if the Government must be altered they desired &c. and in their Letter to the Lords of the Council they expressed a Desire that the Governors sent over might not have absolute Authority, but might be restrained to the Consent of the Council; and that they might still retain the liberty of their general Assemblies. This was the Style & Situation of our Ancestors in the Infancy of the Colony. The English Government was a long time arriving to Maturity also. I don't think the Constitution was properly settled till the Revolution. And then immediately were sown the Seeds of its Ruin. The Parliament then first began to borrow Money and consume in one year the amount of some year's Taxes. And within ten or twelve years Corruption was introduced in order to keep out the Tory Interest. I am very sorry we happen to differ in opinion. I hope however that our Sentiments will again coincide as in other Matters: I wish they could with regard to Storing the Goods. Perhaps it is only intended as a Threat to the Merchants. But if it is otherwise, and they should send any over, I am afraid that we shd. lie at the Mercy or Generosity of those Merchants whether they will apply to [the] Government for Troops to release those Goods or not. If the End could be answered otherwise it would be better. If there was Virtue enough in the Country to abstain from only half the Goods commonly consumed it might probably answer in a few years. If every man of Influence would encourage his Neighbour to persevere perhaps we might hold out; especially if the Names of those

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Merchants should be punished who sell or import contrary to the Desire of the general Sense of the Country; As it might prevent others from doing the like. I am sorry to hear what you Mention of General Gage. I did not imagine he had been so weak as to call Resolutions not to trade with Great Britain by the name of Treason.

I must again apologize for this Letter, hoping You'll excuse it and believe that I am with great Regard.

Dear Sir Your most obedt. Servt. BRYAN FAIRFAX